

**THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

In re:

THE FINANCIAL OVERSIGHT AND MANAGEMENT
BOARD FOR PUERTO RICO,

as representative of

COMMONWEALTH OF PUERTO RICO, *et al.*,

Debtors.¹

PROMESA

Title III

Case No. 17-BK-3283-LTS

(Jointly Administered)

In re:

THE FINANCIAL OVERSIGHT AND MANAGEMENT
BOARD FOR PUERTO RICO,

as representative of

PUERTO RICO HIGHWAYS AND TRANSPORTATION
AUTHORITY,

Debtors.

PROMESA

Title III

No. 17 BK 3567-LTS

AMERINATIONAL COMMUNITY SERVICES LLC, as
Servicer for the GDB Debt Recovery Authority and CANTOR-
KATZ COLLATERAL MONITOR LLC,

Plaintiffs,

Adv. Pro. No. 21-00068-LTS

v.

AMBAC ASSURANCE CORPORATION, ASSURED
GUARANTY CORP., ASSURED GUARANTY MUNICIPAL
CORP., FINANCIAL GUARANTY INSURANCE COMPANY,
NATIONAL PUBLIC FINANCE GUARANTEE

¹ The Debtors in these Title III cases, along with each Debtor's respective Title III case number and the last four (4) digits of each Debtor's Federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico ("Commonwealth") (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); and (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17 BK 04780-LTS) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority ("PBA") (Bankruptcy Case No. 19-BK-5523-LTS) (Last Four Digits of Federal Tax ID: 3801) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

CORPORATION, PEAJE INVESTMENTS LLC, and THE
BANK OF NEW YORK MELLON as Fiscal Agent,

Defendants.

**UNOPPOSED URGENT MOTION OF THE DEFENDANTS FOR LEAVE TO
EXCEED PAGE LIMIT WITH RESPECT TO REPLY IN SUPPORT OF
THE DEFENDANTS' MOTION TO DISMISS THE COMPLAINT**

To the Honorable United States District Judge Laura Taylor Swain:

The Defendants² hereby file this unopposed urgent motion (the “Urgent Motion”) requesting entry of an order, substantially in the form attached hereto as **Exhibit A**, permitting the Defendants to exceed the fifteen (15) page limit for replies set forth in the *Fifteenth Amended Notice, Case Management and Administrative Procedures* (ECF No. 17127-1 in Case No. 17-3283, the “Case Management Procedures”) and allowing the Defendants to file a joint and consolidated reply brief (the “Reply”) of no more than **forty (40) pages** in further support of the *Defendants’ Motion to Dismiss the Complaint* (ECF No. 44, the “Motion to Dismiss”). In support of this Urgent Motion, the Defendants respectfully state as follows:

JURISDICTION AND VENUE

1. The United States District Court for the District of Puerto Rico has subject-matter jurisdiction over this matter pursuant to Section 306(a) of PROMESA.
2. Venue is proper pursuant to Section 307(a) of PROMESA.

² “Defendants” means Assured Guaranty Corp. (“AGC”), Assured Guaranty Municipal Corp. (f/k/a Financial Security Assurance Inc.) (together with AGC, “Assured”), National Public Finance Guarantee Corp. (“National”), Ambac Assurance Corporation (“Ambac”), Financial Guaranty Insurance Company (“FGIC”), The Bank of New York Mellon, as Fiscal Agent (“BNYM”), and Peaje Investments LLC (“Peaje”). “Plaintiffs” or “DRA Parties” refers to AmeriNational Community Services LLC and Cantor-Katz Collateral Monitor. “HTA” means the Puerto Rico Highway and Transportation Authority and the “Commonwealth” means the Commonwealth of Puerto Rico. Capitalized terms used herein but not otherwise defined shall have the meanings given to them in the Complaint.

BACKGROUND

3. On June 26, 2021, the DRA Parties filed their complaint (the “Complaint”) in this adversary proceeding. (ECF No. 1).

4. On July 27, 2021, this Court issued the *Order on Joint Status Report* (the “Scheduling Order”) directing the Defendants “to answer or move with respect to the Complaint” by August 26, 2021; for the DRA Parties to “respond to the [Motion to Dismiss]” by September 23, 2021; and for the Defendants to “file replies in support of the [Motion to Dismiss] by October 8, 2021. (ECF No. 25 ¶ 3).

5. On August 26, 2021, in accordance with the Scheduling Order, the Defendants filed the Motion to Dismiss. (ECF No. 44).

6. On September 23, 2021, the DRA Parties filed *Plaintiffs’ Memorandum of Law in Opposition to the Motions to Dismiss*. (the “Opposition,” ECF No. 60).

7. In accordance with the Scheduling Order, on or before October 8, 2021, the Defendants intend to file the Reply in support of their Motion to Dismiss.

BASIS FOR RELIEF REQUESTED

8. The Defendants respectfully request that they be allowed to exceed the fifteen (15) page limit for replies set forth in Section I.E of the Case Management Procedures and instead be allowed to file one joint Reply in further support of the Motion to Dismiss of no more than forty (40) pages, exclusive of the cover page, tables of contents and authorities, signature pages, exhibits, certificate of service, and other required certifications.

9. The Defendants are working cooperatively and efficiently to submit a joint Reply in further support of the Motion to Dismiss. The Defendants respectfully submit that, to adequately address all points of argument made by the DRA Parties in the Opposition, they will require more

than the fifteen (15) pages permitted in the Case Management Procedures. The joint Reply will include arguments from up to seven Defendants. The Defendants need additional pages to ensure they can include in one memorandum of law all of the arguments that each Defendant intends to raise.

10. Had the Defendants filed individual replies, they would each be entitled to fifteen (15) pages as permitted under the Case Management Procedures for a total of as many as one-hundred and five (105) pages. By endeavoring to synthesize their briefing into one consolidated Reply, the Defendants will be able to substantially reduce the total amount of briefing before this Court and allow for a better-organized and more streamlined presentation of the relevant issues, thereby promoting judicial economy and efficiency.

11. The Defendants further submit that, given the overall importance of this proceeding, it is critical and necessary that the Court be fully briefed on all issues to be included in the Reply. Thus, the requested extension—which amounts to substantially fewer pages than the Defendants would be entitled to if they each filed separate replies—is crucial to ensure that the Court is fully briefed on all issues.

12. Defendants also note that the DRA Parties filed a brief of eighty-four (84) pages in support of their Opposition. As such the Defendants will need to respond to briefing in excess of the typical thirty-five (35) pages allotted for an opposition in the Case Management Procedures.

13. Accordingly, the Defendants respectfully request authorization to file a joint Reply of no more than forty (40) pages, exclusive of the cover page, tables of contents and authorities, signature page, exhibits, certificate of service, and other required certifications. The Defendants submit that this request is reasonable and appropriate in light of the circumstances described above.

NOTICE

14. Notice of this Urgent Motion has been provided to the following entities, or their counsel, if known: (i) the U.S. Trustee; (ii) the Office of the U.S. Attorney for the District of Puerto Rico; (iii) AAFAF; (iv) FOMB; (v) the Committee; (vi) the Official Committee of Retired Employees of the Commonwealth of Puerto Rico; (vii) the insurers of the bonds issued or guaranteed by the Debtors; (viii) certain *ad hoc* groups of holders of bonds issued or guaranteed by the Debtors; and (ix) all parties that have filed a notice of appearance in the above-captioned Title III cases.

CERTIFICATION

15. In accordance with Section I.H. of the Case Management Procedures, the undersigned counsel certify that they have carefully examined the matter and concluded that there is a true need for the Urgent Motion; have not created the urgency through any lack of due diligence; and have made reasonable, good-faith efforts to resolve the issues that are being brought to the Court with counsel for FOMB, AAFAF, and the DRA Parties. FOMB, AAFAF, and the DRA Parties have indicated that they do not object to the relief requested in this Urgent Motion.

NO PRIOR REQUEST

16. No prior request for the relief requested herein has been made by the Defendants to this or to any other court.

WHEREFORE, the Defendants respectfully request that this Court enter an order substantially in the form attached hereto as **Exhibit A** granting the relief requested herein and granting such other relief as this Court deems just and proper.

Dated: October 4, 2021
New York, New York

CASELLAS ALCOVER & BURGOS P.S.C.

By: /s/ Heriberto Burgos Pérez

Heriberto Burgos Pérez
USDC-PR No. 204,809
Ricardo F. Casellas-Sánchez
USDC-PR No. 203,114
Diana Pérez-Seda
USDC-PR No. 232,014
P.O. Box 364924
San Juan, PR 00936-4924
Tel.: (787) 756-1400
Fax: (787) 756-1401
E-mail: hburgos@cabprlaw.com
rcasellas@cabprlaw.com
dperez@cabprlaw.com

*Counsel for Assured Guaranty Corp. and Assured
Guaranty Municipal Corp.*

**CADWALADER, WICKERSHAM &
TAFT LLP**

By: /s/ Howard R. Hawkins, Jr.

Howard R. Hawkins, Jr.*
Mark C. Ellenberg*
William J. Natbony*
Thomas J. Curtin*
Casey J. Servais*
200 Liberty Street
New York, New York 10281
Tel.: (212) 504-6000
Fax: (212) 406-6666
Email: howard.hawkins@cwt.com
mark.ellenberg@cwt.com
bill.natbony@cwt.com
thomas.curtin@cwt.com
casey.servais@cwt.com

* Admitted pro hac vice

*Counsel for Assured Guaranty Corp. and
Assured Guaranty Municipal Corp.*

**ADSUAR MUNIZ GOYCO SEDA &
PEREZ-OCHOA PSC**

WEIL, GOTSHAL & MANGES LLP

By: /s/ Eric Perez-Ochoa

ERIC PÉREZ-OCHOA
USDC-PR No. 206,314
E-mail: epo@amgprlaw.com

By: /s/ Luis A. Oliver-Fraticelli

LUIS A. OLIVER-FRATICELLI
USDC-PR NO. 209,204
E-mail: loliver@amgprlaw.com

208 Ponce de Leon Ave., Suite 1600
San Juan, PR 00936

Tel.: (787) 756-9000
Fax: (787) 756-9010

*Counsel for National Public Finance
Guarantee Corp.*

By: /s/ Robert Berezin

MARCIA GOLDSTEIN*
JONATHAN POLKES*
GREGORY SILBERT*
ROBERT BEREZIN*
767 Fifth Avenue
New York, New York 10153
Tel.: (212) 310-8000
Fax: (212) 310-8007
Email: marcia.goldstein@weil.com
jonathan.polkes@weil.com
gregory.silbert@weil.com
robert.berezin@weil.com

*admitted *pro hac vice*

*Counsel for National Public Finance Guarantee
Corp.*

FERRAIUOLI LLC

MILBANK LLP

By: /s/ Roberto Cámara-Fuertes
ROBERTO CÁMARA-FUERTES
USDC-PR NO. 219,002
E-mail: rcamara@ferraiuoli.com

By: /s/ Sonia Colón
SONIA COLÓN
USDC-PR NO. 213809
E-mail: scolon@ferraiuoli.com

221 Ponce de Leon Ave., 5th Floor
San Juan, PR 00917
Tel.: (787) 766-7000
Fax: (787) 766-7001

By: /s/ Atara Miller
DENNIS F. DUNNE*
ATARA MILLER*
GRANT R. MAINLAND*
JOHN J. HUGHES*
55 Hudson Yards
New York, New York 10001
Tel.: (212) 530-5000
Fax: (212) 530-5219
Email: ddunne@milbank.com
amiller@milbank.com
gmainland@milbank.com
jhughes2@milbank.com

*admitted *pro hac vice*

Counsel for Ambac Assurance Corporation

Counsel for Ambac Assurance Corporation

ARENT FOX LLP

By: /s/ David L. Dubrow

DAVID L. DUBROW*

MARK A. ANGELOV*

1301 Avenue of the Americas

New York, New York 10019

Tel.: (212) 484-3900

Fax: (212) 484-3990

Email: david.dubrow@arentfox.com

mark.angelov@arentfox.com

By: /s/ Randall A. Brater

RANDALL A. BRATER*

1717 K Street, NW

Washington, DC 20006

Tel.: (202) 857-6000

Fax: (202) 857-6395

Email: randall.brater@arentfox.com

*admitted pro hac vice

Counsel for Ambac Assurance Corporation

REXACH & PICÓ, CSP

BUTLER SNOW LLP

By: /s/ María E. Picó

María E. Picó
USDC-PR 123214
802 Ave. Fernández Juncos
San Juan PR 00907-4315
Telephone: (787) 723-8520
Facsimile: (787) 724-7844
E-mail: mpico@rexachpico.com

*Attorney for Financial Guaranty
Insurance Company*

By: /s/ Martin A. Sosland

Martin A. Sosland*
2911 Turtle Creek Blvd., Suite 1400
Dallas, TX 75219
Telephone: (469) 680-5502
Facsimile: (469) 680-5501
E-mail: martin.sosland@butlersnow.com

James E. Bailey III*
Adam M. Langley*
6075 Poplar Ave., Suite 500
Memphis, TN 38119
Telephone: (901) 680-7200
Facsimile: (901) 680-7201
Email: jeb.bailey@butlersnow.com
adam.langley@butlersnow.com

**Admitted pro hac vice*

*Attorneys for Financial Guaranty Insurance
Company*

SEPULVADO, MALDONADO &
COURT

REED SMITH LLP

By: /s/ Albéniz Couret Fuentes

Albéniz Couret Fuentes
USDC-PR 222207
304 Ponce de León Ave. Suite 990
San Juan PR 00918
Telephone: (787) 765-5656
Facsimile: (787) 294-0073
E-mail: acouret@smclawpr.com

*Attorney for The Bank of New York
Mellon, as Fiscal Agent*

By: /s/ Jared S. Roach

Luke A. Sizemore*
Jared S. Roach*
225 Fifth Avenue, Suite 1200
Pittsburgh, PA 15222
Telephone: (412) 288-3131
Facsimile: (412) 288-3063
E-mail: lsizemore@reedsmith.com
jroach@reedsmith.com

**Admitted pro hac vice*

*Attorneys for The Bank of New York Mellon,
as Fiscal Agent*

MONSERRATE SIMONET & GIERBOLINI, DECHERT LLP
LLC

/s/ Dora L. Monserrate Peñagaricano

Dora L. Monserrate-Peñagaricano
USDC-PR No. 212612
Fernando J. Gierbolini-González
USDC-PR No. 211901
Richard J. Schell
USDC-PR No. 305811
101 San Patricio Avenue
Maramar Plaza, Suite 1120
Guaynabo, Puerto Rico 00968
Phone: (787) 620-5300
Fax: (787) 620-5305

Attorneys for Peaje Investments LLC

/s/ Allan S. Brilliant

Allan S. Brilliant (*pro hac vice*)
Yehuda Goor (*pro hac vice*)
1095 Avenue of the Americas
New York, New York 10036
Tel: (212) 698-3500
Fax: (212) 698-3599

-and-

G. Eric Brunstad, Jr. (*pro hac vice*)
90 State House Square
Hartford, Connecticut 06103
Tel: (860) 524-3960
Fax: (860) 524-3930

-and-

Stuart T. Steinberg (*pro hac vice*)
Cira Centre
2929 Arch Street
Philadelphia, Pennsylvania 19104
Tel: (215) 994-2521
Fax: (215) 994-2222

Attorneys for Peaje Investments LLC

CERTIFICATE OF SERVICE

I hereby certify that I filed this document electronically with the Clerk of the Court using the CM/ECF System, which will send notification of such filing to all parties of record in the captioned case.

At New York, New York, the 4th day of October, 2021.

By: /s/ Howard R. Hawkins, Jr.
Howard R. Hawkins, Jr.*
* Admitted pro hac vice